File No. 390(7)

1931.

Collection No.

(5)

Mysore Residency

Bangalore.

Pros. Serial Nos. 1-4

Subject.

Petition from Mr. C.R.Nagappa in connection with the election of Messrs. B.G.Rajagopal Mudaliar and B.N.Rajagopal Chetty as Municipal Commissioners.

Previous References.	Later References.

S. 97.—(Blue).

MFP—168S&P—(M-184)—11-8-34—60,000.

NOTES AND PRECIS.

FILE No. 390(7) 1931.

Section. File No.

Heading. Serial No.

NOTES.

DEPT. BRANCH.

Pros. 19 . Nos.

Subject.

Petition from Mr. C.R.Nagappa in connection with the election of Messrs. B.G.Rajagopal Mudaliar and B.N. Rajagopal Chetty as Municipal Commissioners.

Notes and Orders.

S. 1.

SGPI—FP—379DCFMis.—4-12-24—2,00,

S.N.1.

(A)

Petition dated the 27th November, 1933, from Mr.C.R.Nagappa, Land-lord, No.12-A, Park Road, Tasker Town, Bangalore.

*A general election is held every third year in the month of November on dates fixed by the Resdt.

Rule 9 - page 4 of (K)

(1) In the general election* of Municipal Commissioners held this month, the following four gentlemen were candidates for the two seats allotted to "Hindus and others" in the IV Division (West General Bazaar):-

1. Mr.B.G.Rajagopal Mudaliar.
2. " B.N.Rajagopal Chetty.
3. " C.R.Nagappa.
4. " A.S.Krishnamurthy.

(2) The election for these two seats was held on the 20th November 1933 and the first two gentlemen (Messrs.Rajagopal Mudaliar and Rajagopal Chetty) were declared as elected, they having secured 282 and 268 votes, respectively, as against 207 for Mr.Nagappa and 138 for Mr.Krishnamurthy.

† Page 2 of (A) ~~R.C.~~ in the linked file.

(3) One of the defeated candidates, Mr.Nagappa, ~~appears to have~~ filed a petition before the President of the Commission (Collector) containing various allegations about the conduct of the election. The petition was summarily rejected by the President, as, in his opinion, it did not contain any allegation of corrupt practice, etc., against the candidates who succeeded in the election and did not, therefore, come under rule 14 of the Election Rules published with the Resident's Notification No.37 dated the 16th April 1928. (What amounts to 'corruption' and 'intimidation' is defined in Rule 13 of the said Rules). (A)

⊗ S.N.1/a Encl 5 (A)

(4) Mr.Nagappa has filed the present petition against the order of the President referred to above. He has enclosed a copy of the President's order but has not furnished a copy of the petition on which it

× K

was

was passed. The exact nature of the 13 allegations said to have been made by him in his petition(and referred to by the President in his order)is therefore not known.

(5) It may be mentioned that the Municipal Law or the rules framed thereunder do not make any provision for election petitions, except on the ground of corrupt practices or intimidation (Rules 13 and 14 of the Election Rules). There is no provision for cases where an election is sought to be set aside on the ground that votes have been wrongly admitted or excluded or that there have been irregularities in the conduct of the election. Perhaps, an aggrieved party's only remedy is by way of a civil suit.

If approved, the remarks of the President on the petition may be called for immediately. Draft submitted.

In the last paragraph of the p.u.c., the petitioner requests that pending disposal of his petition, "the declaration announcing the election of the opponents" be not given effect to. Under section 13 of the Municipal Law, every election of a Commissioner has to be notified by the Resident. Apparently, what the petitioner wants is that the notification under section 13 in respect of the election of Messrs. Rajagopal Mudaliar and Rajagopal Chetty should not issue until final orders are passed on the application filed by him. The term of the existing Commissioners expires on the 30th November 1933 and it is therefore necessary that the election of the new Commissioners should be notified on or before the 1st December 1933. The President has already applied for the urgent issue of such a notification. It seems, therefore, that the election of the successful candidates may at once be notified. If and

when

when the election of Messrs. Rajagopal Mudaliar and Rajagopal Chetty is declared to be void under Rule 14 of the Election Rules, they can presumably be removed from office by the Resident under section 11(1)(a) on the ground that they have become "incapabale of acting" as Commissioners. If this is agreed to, the draft notificaiion submitted in the linked file may issue at once. If not, it may issue with the portion marked in pencil on page 2 omitted.

(From para 1)

(K)

+ of the Municipal Laws Pub. W/s.

(There is a correction page 7 of the Bulletin Judgt. at L).

27.XI.33

Sec.

Issued No. 10978 Dt. 30.11.33

(B) S.N.2.

S.N.3

P.U.C.

Letter No.G.T.116/33 dated the 4th December 1933 from the President, Municipal Commission, C. & M. Station, Bangalore.

(A)

Please see S.N.1, notes thereon (paras 1 to 6 ante) and p.u.c.

The various allegations made by the petitioner and the P.M.C.'s remarks thereon are reproduced below for facility of reference. (S.N.3/a (encl. to P.U.C.))

List of defects, irregularities leading to corrupt practices: Vide petition: enclosure to S.N.3. (P.U.C.)		P.M.C.'s replies.
(i) No. of voters qualified as per list.	699.	I did the checking of votes and the counting and am satisfied that my work was correct: I cannot understand the arithmetic of the petition. (Perhaps, the petr.'s statistics of .1— first two rounds agree).
No. of voters who polled.	608.	
No. of voters declared invalid.	21.	
Total no. of valid voters.	587.	
Total no. of votes given as per declaration of the returning officer as having been secured by the candidates.	916.	
No. of invalid votes.	21.	
No. of vlaid votes.	895.	
Of these, single votes are	287.	
Other votes are	600.	
Total.	887.	
Hence there is a discrepancy in the scrutiny and declaration of votes.		
(ii) Names of dead voters have been utilised for voting.		I made adequate arrangements to avoid such happenings and am satisfied with the care taken by my staff to avoid impersonation etc. Not a single specific instance has been mentioned in the
(iii) Ineligible voters have voted.		
(iv) Names of absentee voters have been used for voting and also there is impersonation of voters.		
(v) Same voters have voted more than once.		

	(the petition and it seems to (me to be frivolous to make (generalisations of this (nature.
(vi) Voters entitled to vote were not allowed to exercise their franchise.	(I heard of no such action by anybody, and was present for most of the time during which the polling was going on.
(vii) Contrary to directions, on the entry of a voter to the polling booth, names of certain candidates were announced with emphasis.	(I am satisfied that his (allegation against me and (my staff is deliberately (untrue, if the suggestion is that this happened (inside the polling booth: (if outside, it is normal (electioneering procedure.
(viii) Proxy votes were recorded.	(Please see my reply to (items (ii) to (v) supra.
(ix) Voters were instructed to vote in a particular way in the booth.	(I am satisfied that this is a deliberate falsehood.
(x) There was manipulation in the distribution of voting slips.	(This is a scandalous and (most libellous allegation (against me personally, as (I checked and counted each (slip myself in the presence (of the candidates.
(xi) There was no secrecy in voting.	(This is completely false.
(xii) No arrangement was made to identify voters, nor any official mark affixed for use by the voter.	(This is completely false; (the second semtence is not (understood.
(xiii) Want of proper control over the entrance and the exit has encouraged the perpetration of irregularities, illegalities and corrupt practices.	(This is a general statement (alleging inefficiency on (the part of myself and my (staff.

As already stated in para 5 ante, the only rule under which the Resident can declare an election to be void is rule 14. This rule reads as follows:-

"Whenever any allegation of corrupt practices or intimidation at an election, is made by a person qualified to vote or to be elected a Commissioner at such election, the same shall be enquired into by the President, who shall submit a report thereof, together with his proceedings in the case, to the Resident. If upon a perusal of such report and proceedings, the Resident finds that the person, against whom the allegation is made, has been guilty of corruption or intimidation, or has connived at or abetted the exercise of corruption or intimidation on his behalf by any other person, he may declare such election to be void".

Corruption

"Corruption" and "intimidation" are defined in rule 13, and, presumably, allegations that may be made under rule 14 should be confined to "corrupt practices" and "intimidation" as defined in rule 13. From the wording of rule 14 and section 175 (2) (ii) of the Bangalore Municipal Law under which that rule has apparently been made, it also appears necessary that any allegation that may be made should be directed against a candidate or candidates who stood for election.

Now, Mr.Nagappa's petition to the P.M.C. does not, it is submitted, appear to contain any allegation of "corrupt practices" or "intimidation" as defined in rule 13. Para 3 of the petition no doubt speaks of "corrupt practices", but the allegations actually made are of a very general nature. No specific allegations of "corrupt practices" or "intimidation" have been made. Again, such allegations, as have been made, are not directed against any particular person or persons. It is true that the two candidates who succeeded in the election have been cited as "counter-petitioners" in the petition, but in the body of the petition, no allegations of any sort have been made against either of them. As stated by the P.M.C. in his order, the allegations are against the polling officer and his staff.

If any allegation of "corrupt practices" or "intimidation" as defined in rule 13 had been made against any of the candidates who stood for election, the P.M.C. was bound to enquire into it and submit a report to the Resident: he, however, dismissed the petition summarily on the ground that no such allegations had been made against the candidates and that the petition did not therefore come under rule 14.

The P.M.C. says that he is satisfied that all the allegations

allegations are false and frivolous and deserve no consideration.

In the circumstances, the petition may perhaps be rejected, unless the Resident considers that the P.M.C. should enquire into the allegations and submit a report to him. If an enquiry is ordered, it is possible that the petitioner might be able to cite specific cases of "corruption" or "intimidation" against the counter-petitioners during the course of the investigation. Paragraphs 1 to 4 of the petition to the Resident may kindly be seen in this connection.

For orders.

(From para 1)

16-12-33.

17.12.33

Sec B (16)

The petition may be rejected summarily. The only point for consideration is whether we should examine the petitioner's allegations under the law of libel and may Govt. Pleader be consulted?

Resident

A.

Please see my remarks in margin of para 11 of notes.

The petition discloses no cause for action under Rule 14 of the Rules published with the Resn.ns No. Jt. 37, of 16.4.1928 read with Rule 13 of the said Rules. It may, therefore, be dismissed.

(17)

As regards portion marked A in Secy's note, we might consult P.M.C., for, as he has said, the allegations are mainly directed against him: In the circs I am not much in favour of case being filed unless P.M.C. strongly presses for it.

(18)

Secy. 27/12/32

To

U.C.No. 11610

The President,
Municipal Commission,
Civil and Military Station,
Bangalore.

Dated, the 30th Decr., 1933

I quite agree with the Resident: and have no desire to proceed to institute against the petitioners.

1.1.34

Secy

(1)

(2)

OFFICE OF THE RESIDENT IN MYSORE,
BANGALORE.
2 JAN. 1934
Regd. No. 38
File. No.

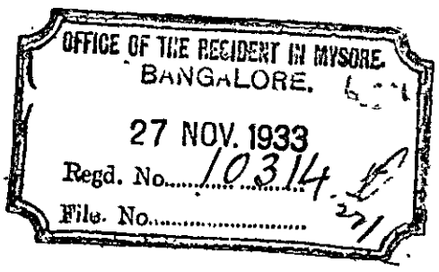
Draft submitted.

3.1.34 (From para 17)

Secy

CORRESPONDENCE.

27.11.33



Before the Honourable the British Resident

in Mysore, Bangalore.

Petitioner. Mr. C.R. Nagappa, aged 34 years, son of Mr. C. Rudrappa, Lingayat, Land lord, residing in No. 12-A, Park Road, Tasker Town, High Ground Division, C & M Station, Bangalore.

vs.

Opponent. 1. Mr. B.G. Rajagopal Mudaliar, aged about 43 years, son of Gajaraja Mudaliar, auctioneer, residing in No. 8, Fruit Street, No. III Municipal Division, C & M Station, Bangalore.

2. Mr. B.N. Rajagopal Chetty, aged about 32 years, Jewel merchant, residing in No. 19, Veerapillay Street, No. IV Division, C & M Station, Bangalore.

The application of Mr. C.R. Nagappa under Section 175 of the Bangalore Municipal law of 1897 and the rules thereunder to revise the order herewith filed of the President, Municipal Commission, C & M Station, Bangalore, passed on 25-11-33 summarily rejecting his application complaining against the election of the opponents to No. 4 Division, C & M Station, Bangalore.

S.N.1/a

o Copy not filed.

But please see S.N.3/a (encl-b pre)

1. The learned President of the Municipal Commission was in error in understanding that the petition was directed against him.

2. The President was not right in rejecting the petition summarily without giving the petitioner an opportunity to adduce evidence in proof of the same.

3. The finding of the learned President that the 13 allegations in the petition are against him and not against the candidates who were made opponents, is incorrect.

4. The finding of the President that this petition does not come under rule 14 of the Honourable the Resident's notification No. 37 dated 16th April 1928 is not correct.

5. That the summary rejection of the petition without giving an opportunity for adducing evidence in support of the petition, has occasioned a failure of justice.

Wherefore it is respectfully prayed that the papers may be sent for, the summary order set aside, case heard and disposed of in accordance with law.

It is further respectfully prayed that pending disposal of this petition the declaration announcing the election of the opponents be not given effect to. For which act of justice the petitioner ever prays.

Bangalore,
27-11-1933.

K.R. Nagappa
Petitioner.

No 8848/33 Dated 25-11-33 1/a

Order passed on petition from Mr. C. R. Nagappa, aged 34 years, son of Mr. C. Rudrappa, Lingayat, Land lord, residing in No.12-A, Park road, Tasker Town, High Ground Division, C. & M. Station, Bangalore,

Vs.

Counter Petitioners.

1. Mr. B. G. Rajagopal Mudaliar, aged about 48 years, son of Gajaraja Mudaliar, auctioneer, residing in No.8, Fruit street, No.III Municipal Division, C. & M. Station, Bangalore.

2. Mr. B. N. Rajagopal Chetty, aged about 32 years, Jewel Merchant, residing in No.19, Veerapillay Street, No.IV Division, C. & M. Station, Bangalore.

O R D E R.

There are 13 allegations in the petition, every one of which is an allegation against my conduct of the elections. Every thing in the petition criticises the arrangements which I made and for which I was personally responsible; no allegation of corrupt practice etc., is made against the candidates who succeeded in the election.

In these circumstances, the petition does not come under rule 14 of the Hon'ble the Resident's Notification No.37, dated 16th April 1928; as the petition is clearly against me as polling officer, I am not competent to entertain it.

It is therefore rejected summarily.

(Sd). G. H. Cooke,

President, M. C.

MVL.
25-11-33.

8848/33 Dated 25-11-33

Copy forwarded to Messrs. C. Seshachar, B.Sc., LL.B., A. J. Khaleel, B.A., B.L., Advocates for petitioner, No.30, Muslim Hall road, Bangalore City.

25.11.33.

for President, M. C.

25/11

IMMEDIATE.

2

No. 10978 Rec'l

Office of the Resident in Mysore,
Bangalore,

Dated, the 30th November 1933.

A copy of the undermentioned paper is forwarded to the President, Municipal Commission, Civil and Military Station, Bangalore, for favour of remarks at a very early date. The connected records ~~xxxxxxxxxxxx~~, may kindly be sent for reference, with the reply.

O/c

30/XI/33

for SECRETARY TO THE RESIDENT.

S.N.1.

Petition dated the 27th November 1933, from Mr. C.R. Nagappa, No.12-A, Park Road, Tasker Town, Bangalore.

GS.

13-1,000—11—9—1933.

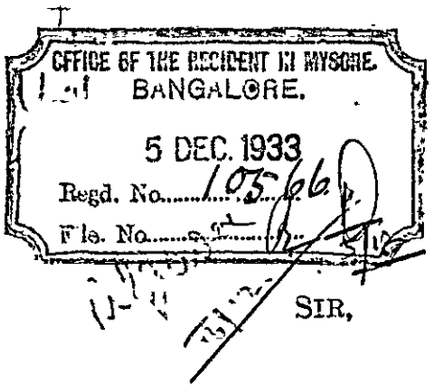
No. G.C. 116/33

CIVIL AND MILITARY STATION, BANGALORE
MUNICIPAL OFFICE.
DATED.....4.....December.....1933.

From

G. H. COOKE, ESQ., M. C., I. C. S.,
President, Municipal Commission,
Civil and Military Station, BANGALORE.

To



The Secretary to the Hon'ble the Resident
in Mysore,
BANGALORE.

SIR,

With reference to your endorsement No.10978 dated the 30th November 1933, forwarding for my remarks copy of a petition presented to the Hon'ble the Resident by Mr. C. R. Nagappa, one of the unsuccessful candidates for election to represent Hindus and others of No.IV Division, I have the honour to enclose a copy of the petition which he presented to me on the 25th November 1933, together with a copy of my order thereon of the same date, and to furnish the following replies to the various allegations made in that petition:-

(1) I did the checking of votes and the counting and am satisfied that my work was correct: I cannot understand the arithmetic of the petition.

(2) (3) (4) (5) I made adequate arrangements to avoid such happenings and am satisfied with the care taken by my staff to avoid impersonation etc. Not a single specific instance has been mentioned in the petition and it seems to me to be frivolous to make generalisations of this nature.

(6) I heard of no such action by anybody, and was present for most of the time during which the polling was going on.

(7) I am satisfied that his allegation against me and my staff is deliberately untrue, if the suggestion is that this happened inside the polling booth: if outside, it is normal

electioneering procedure.

(8) Please see my reply to items 2 to 5 supra.

(9) I am satisfied that this is a deliberate falsehood.

(10) This is a scandalous and most libellous allegation against me personally, as I checked and counted each slip myself in the presence of the candidates.

(11) This is completely false.

(12) This is completely false: the second sentence is not understood.

(13) This is a general statement alleging inefficiency on the part of myself and my staff.

S.N. 3/6 cl. to c

I adhere to the remarks made in my order on Mr. Nagappa's petition of the 25th November 1933. Polling took place from 8 to 11.30 A.M., and I was personally in the polling booth from 8 to 9 A.M., and from 10.30 to 11.30 A.M. Not a single complaint was made to me by any candidate or other interested person, though I was freely accessible.

I am satisfied that the petition is deserving of no consideration.

There are no records except the voting slips and the post card intimations brought by voters which are in the custody of the Secretary, Municipal Commission, under my seal.

I have the honour to be,
Sir,
Your most obedient servant,

PRESIDENT, M. C.

DIW.
4-12-33.

3/a

Before the President of the Municipal Commission

of the Civil and Military Station, Bangalore.

Election Petition No. of 1933.

Petitioner:- Mr. C. R. Nagappa, aged 34 years, son of Mr. C. Rudrappa, Lingayat, Landlord, residing in No.12-A Park Road, Tasker Town, Highground Division, C. & M. Station, Bangalore.

Vs.

Counter Petitioners:- 1. Mr. B. G. Rajagopal Moodr., aged about 48 years, son of Gajaraja Moodr., Auctioneer, residing in No.8 Fruit Street, No.III Municipal Division, C. & M. Station, Bangalore.

2. Mr. B. N. Rajagopal Chetty, aged about 32 years, Jewel Merchant, residing in No.19 Veerapillay Street, No.IV Division, C. & M. Station, Bangalore.

(R)

Under section 175 of the Bangalore Municipal Law of 1897, the humble petitioner respectfully showeth:-

1. that the petitioner, the opponents and one Mr. A. S. Krishnamurthy were candidates for election in No.IV Municipal Division. The election took place on 20-11-1933.

2. that the Returning Officer has returned Messrs. B. G. Rajagopal Mudaliar and B. N. Rajagopal Chetty, as being duly elected.

3. that your petitioner submits in a separate list defects, irregularities and corrupt practices which vitiate the election of the said Messrs. B. G. Rajagopal Mudaliar and B. N. Rajagopal Chetty.

4. wherefore your petitioner prays that it may be determined after enquiry and scrutiny that the said Messrs. B. G. Rajagopal Mudaliar and B. N. Rajagopal Chetty were not duly elected or returned and the declaration of the Returning Officer is void.

List of defects, irregularities leading to corrupt practices.

(1)	No. of voters qualified as per list		699.
	No. of voters who polled.		608.
	No. of voters declared invalid		21.
	Total no. of valid voters.		587.
	Total no. of votes given as per declaration of the returning officer as having been secured by the candidates		916.
	No. of invalid votes.		21.
	No. of valid votes		895.
	Of these single votes are	287.	
	Other votes are	600	
	Total ...	887.	

Hence there is a discrepancy in the scrutiny and declaration of votes.

PROCEEDINGS OF THE HON'BLE THE RESIDENT IN MYSORE.

No. 217. Dated Bangalore, the 8/16 January 1934.

R e a d:-

Petition dated the 27th November 1933 from Mr. C.R. Nagappa, residing at No.12/A, Park Road, Tasker Town, Civil and Military Station, Bangalore, in connection with the election of Messrs. B.G. Rajagopal Mudaliar and B.N. Rajagopal Chetty as Municipal Commissioners to represent Hindus and others of the West General Bazaar (IV) Division.

O R D E R.

The petition discloses no cause for action under Rule 14 of the Rules published with the Resident's Notification No.37, dated the 16th April 1928, read with Rule 13 of the said Rules. It is therefore dismissed.

Major,
SECRETARY TO THE RESIDENT.

To the Petitioner.

To the President, Municipal Commission, Civil and Military Station, Bangalore, with reference to his letter No.G.t.116/33, dated the 4th December 1933.

GS.